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Qur'anic Ethics and Islamic Law

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Abstract

The issue of Islamic law and morality has for the most part received scant attention in the modern age. This essay contributes to the exploration of possible ways of understanding the relationship of ethics to Shari'ah and Islamic law. The author's objective in this essay is largely normative. While he makes every effort to root his arguments in the fabric of the Islamic tradition, this essay is not descriptive, but aspirational in the sense that he seeks to persuade readers of the desirability of specific understandings of the meaning of Shari'ah and the relationship between Islamic law and ethics. As a point of departure, the author accepts that the Qur'an and the laws of God are binding, and that an Islamic theory has to be expressed within the framework of Islamic principles. He maintains that the dynamism and vitality of Islamic law must be preserved in the contemporary age, and that such a result is not possible without maintaining the liberty and innovative capacities of the individual.

Keywords

Qur'an – Islamic ethics – Islamic jurisprudence – Shari'ah – Islamic theology

The question of how the law becomes known has occupied the minds of Muslim scholars for a long time. In the early centuries, the heated debates,

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and at times even hostilities, centered around the place and role of ethical principles and reason in the development of the religious tradition. Numerous reports in the Islamic tradition described the very mission of the Prophet Muhammad as part and parcel of an ethical project—a project that builds upon and develops people's natural ethical being. This was only bolstered by the text of the Qur'an in which God praises Muhammad for his moral rectitude and ethics. (Qur'an 68:4.)[1] Moreover, there are numerous Prophetic traditions that emphasized the inextricable relationship between ethics and Islam. One such report states: "The most beloved among you to me are those who are of the noblest character."[2] At the very roots of Islamic theology is the demanding and inspiring Qur'anic exhortation that Muhammad was sent but as a mercy to humankind. (Qur'an 21:107).[3]

Considering the central role of the imperative of ethics (*akhlāq*) in early Islamic theological dogma, it is not surprising that the early generations of Muslims quickly inherited and hotly debated the Greek philosophical discourses on the sources and nature of moral obligations. In the classical heritage, there were the archetypal and opposing camps: at one pole was the *Muʿtazila*, who argued that justice and virtue are knowable through human reason; and at the other pole, the traditionalists (*Ahl al-Ḥadīth*), who argued that reason is necessarily whimsical and capricious, and that justice and virtue are only realized through revelation. In the first centuries of Islamic jurisprudence, the debates about the very nature of justice, ethics, and the role of reason and revelation were formative and dynamic.[4] However, in modern times, these debates

1 There is also a famous saying of the Prophet that states: "I was sent to perfect the ethical character of human beings." See Mālik b. Anas 1985, 904–5; Ibn Abī al-Dunyā 1990, 21.

2 The report's terminology is *ahsanukum akhlāqan* more literally meaning: of the highest or most beautiful ethical character. In a hadith, the Prophet is reported to have said: "I have been sent to perfect the nobility of character." Another report states: "The best of deeds after faith in God (*īmān*) is benevolent love towards people." See Chourief 2011, 1–2, 10. For many Prophetic reports on the centrality of ethics, see al-Ghazālī 2010, 3:48–51.

3 On the treatment of ethics in the Qur'an and early Sunna, see al-Attar, 2010, 11–25. Syed Ameer Ali did a very good job in collecting and analyzing some of the authorial enterprises of oral traditions attributed to the Prophet on the question of the central ethics of early Islam, see Ali 1893, 1–51.

4 Classical jurists discussed the nexus between law and morality most typically in works of *uṣūl al-fiqh* (jurisprudential theory) under the subheading of *ḥusn* and *qubḥ* (goodness and ugliness). However, as is often the case with debates on legal philosophy and the nature of law, the primary concern for classical jurists was to preserve and maintain the integrity and legitimacy of the legal process. This meant that more often than not classical jurists opted to defend the integrity of the legal process over other competing substantive concerns. Effectively, this meant that classical jurists upheld the instrumentalities of procedural justice

have formally subsided. While there are reformers, like Muhammad Iqbal (d. 1938) and Muḥammad ʿAbduh (d. 1905), who sought to give rationality and reason a far greater role in the articulation of Islamic law, there are also fundamentalists, like Abū al-ʿAlāʾ Mawdūdī (d. 1979), who treated positive legal rules as the source of all morality and justice. Whatever the nature of the debates that exist between reformers and traditionalists today, it is usually not phrased in terms of morality and law. The issue of Islamic law and morality has for the most part received scant attention in the modern age. This essay contributes to the exploration of possible ways of understanding the relationship of ethics to Shariʿah and Islamic law. My objective in this essay is largely normative. While I make every effort to root my arguments in the fabric of the Islamic tradition, this essay is not descriptive, but aspirational in the sense that I seek to persuade readers of the desirability of specific understandings of the meaning of Shariʿah and the relationship between Islamic law and ethics. I am here motivated by two considerations. As a point of departure, I accept that the Qur'an and the laws of God are binding, and that an Islamic theory has to be expressed within the framework of Islamic principles. I maintain that the dynamism and vitality of Islamic law must be preserved in the contemporary age, and that such a result is not possible without maintaining the liberty and innovative capacities of the individual. I do not believe in the desirability or reasonability of ignoring or dismissing the entire Islamic juristic heritage. It would be intellectually irresponsible and pedagogically incoherent to do so. In my view, the Islamic juristic heritage has an important instructive and demonstrative role, but also a critical anchoring role to play for contemporary Muslims. I do believe that, as many contemporary Muslim reformers have argued, the classical juristic tradition must be examined and interrogated through the probative lens of ethical and moral theory. The issue I focus on in this essay is the ethical and moral impulse embedded in the Qur'anic revelation and its normative capacity to transform articulations of Islamic law in the modern age.

Justice as the Path of Divinity: The Nature of Islamic Jurisprudence

"Lo, We offered the trust unto the heavens and the earth and the hills, but they shrank from bearing it and were afraid of it. And man assumed it. Lo! He hath proved a tyrant and a fool." (Qur'an 33:72). The message conveyed by this verse is that humans accepted God's trust, and with it, they accepted a laborious test. Humans are to be held accountable for their decisions and actions here and in

as the main concern of the law instead of abstract concepts of substantive justice. On the debates between the *mukhaṭṭiʾa* and the *muṣawwiba*, see Abou El Fadl 2001, 148–51.

the final life. God's choice to trust humans was elicited by our gift of *rationality* but, at the same time, it created a burden of *accountability*. The failings of humanity are its own and the successes are its rewards.

This burdensome privilege is not confined to the trust God placed in humans. God also made human beings God's viceroys. "We appointed you viceroys on the earth—that We might see how you behave." (Qur'an 10:14). Humans in general, and Muslims in particular, must meet God's expectations. The purpose of humans in life is to realize the righteous path of God, but this entails an everlasting moral struggle to attain that Divine path. The Qur'an speaks of this moral and righteous path—the path of Divinity itself—as an existing objective fact. It is as if the genuinely and truly moral and righteous are co-extensive and inseparable from the Divine.

The Qur'an often uses terms such as *ẓulm* (injustice), *'adl* (justice) or *al-ṣāliḥ* (the good) in an objective fashion, as if they are ontological realities—independent and objective. The Divine is the very embodiment of all that is moral, ethical, good and right, and therefore, the presence of the Divine as an objective reality necessarily means the existence of ethical values such as justice and goodness as an objective reality. Accordingly, it is meaningless for one to claim that God in fact does exist but that justice or goodness does not. Partial justice or partial goodness could be contextual, contingent, and relative, but absolute and perfect justice or goodness is not. Absolute and perfect justice and goodness are attributes of the Divine because the Divine embodies all that is right and good. The Qur'an makes repeated references to the fact that God embodies all the names of beauty (*lahu al-asmā' al-ḥusnā*), and it is fair to say that God embodies all that is beautiful and good. (Qur'an 7:180; 17:110; 20:8; 59:24.)[5] These Divine embodiments are objective and not subjective realities. The objective entails the absolute and Divine, as the Divine is non-contingent and objective. Critically, God knows the righteous path, but humans do not—they need God's guidance and revelation to reach out towards what the Qur'an describes as *al-sirāṭ al-mustaqīm* (the righteous path). In the *surah* that introduces the Qur'an, God exhorts Muslims to say, "[God], show us the righteous path; the path of those upon whom You have bestowed Your grace …" (Qur'an 1:6–7.) But, ultimately, God alone knows what the right path is: "God knows who has wandered from God's path, and God knows better who is rightly guided." (Qur'an 16:125).

5 Throughout this essay, I refer to the attributes or qualities of Divinity. This should not be confused with the dogma of the so-called ninety-nine names of God. The authenticity of the ninety-nine names traditions leave alone the relationship of the ninety-nine names to Godliness (or *rabbāniyyah*) is beyond the scope of this essay.

As is well known, there is no formal church or priesthood to guide people in Islam. Muslim historical practices did produce a class of experts in theology and law, commonly known as the *fuqahā'*, imams, or mullahs, who claim to be authoritative on religious matters. However, especially in Sunni Islam, the authority of these experts is entirely contingent on personal deference, or the willingness of individuals to place their confidence in the opinions and claims of such experts. Regardless of their expertise or knowledge, no religious scholar can claim sacred authority or claim to be immune from error. Quintessentially, other than the Qur'an and the teachings of the prophets, humans must rely on their own faculties in realizing the true moral path. Furthermore, according to the Qur'an, humans cannot escape responsibility or accountability by relying on customary practices or the teachings of their forefathers as an excuse for failing to seek the righteous path. They will not be excused for deferring to the commands of their superiors or for blindly adhering to the prevailing social mores or inherited religious beliefs and practices.

This does not mean that the technical rulings of Islamic law are to be known intuitively or that any conceited person with a delusional sense of jurisprudential acumen may pontificate as to the details of the law. We are not yet talking about Islamic law; we are only addressing the relationship of the individual *vis-a-vis* the righteous path as an objective reality. In other words, we are talking about the basic moral and ethical precepts and the responsibility of individuals to seek to live an ethical and moral life. The Qur'an insists that a person may not cite the moral irresponsibility or the immorality of others as an excuse for his or her own moral failures.

Ethical Obligations in Islamic Law

In this context, it is critical to differentiate between responsibility or obligation and accountability or liability. Each and every human being has a moral obligation or responsibility to seek out and recognize *al-sirāṭ al-mustaqīm* (the righteous path) or objective ethical precepts, which are inseparable from divinity itself. The Qur'an describes the realization or recognition of the path, which includes believing in God, as an act rising out of rational cognition or a matter of common sense. The Qur'an describes itself as a book of remembrance (*dhikr*), and maintains that its most essential function is to remind people of the reality of Divinity—a reality that includes the presence of God and all that this presence implies. The Qur'an emphasizes repeatedly that the instruments for realizing or recognizing the truth is cognition (*fikr*), reason

(*ʿaql*), and remembrance (*dhikr*). In this context, the truth is Divinity and Divinity is the truth, but recognition of Divinity necessitates the recognition of the values that attach themselves to the Divine—values such as justice, fairness, compassion, mercy, honesty, and goodness.[6] As al-Rāghib al-Iṣfahānī (d. 502/1108) asserted, the duty to do good amounts to an obligation to adopt Godly virtues (*al-takhalluq bi-khulqi ʾllāh*).[7]

The Qur'an intimates that many elements of the *sirāṭ*, but not the whole integrated sum of the righteous path, are an innate part of the human mind. As God created humans, he inspired unto them an intuitive liking for the path of righteousness: "And so, set thy force steadfastly towards the [one ever-true] faith, turning away from all that is false, in accordance with natural disposition intuition (*fiṭrah*) which God has instilled unto humans …" (Qur'an 30:30). The righteous path of Godliness is embedded in the very nature of human beings. It is the natural intuition (*fiṭrah*) woven into the very fabric of human consciousness that aids people in differentiating between what is Godly (*rabbānī*) and good (*ḥasan*), and what is ungodly and bad (*qabīḥ*). (Qur'an 30:30; Abou El Fadl 2014a, 366–73; idem 2014b, 109–23; Rahman 2009, 3, 12–24; Sachedina 2001, 26–27, 43–44, 70–101; idem 2009, 46–53, 58–61, 92–114.)

The Qur'an continuously prompts people to think, reflect and ponder as a way of reaching out towards the truth of God and God's path. The necessity of such thought and reflection is affirmed by the Prophet's saying, "One hour spent acquiring knowledge is better than the prayers of a whole night." (al-Dārimī 2013, 207, hadith no. 658; al-Khaṭīb al-Tabrīzī 1979, 85, hadith no. 256.) Elements of the righteous path—or, in other words, basic moral precepts—are accessible to human beings through the act of diligent remembrance and reflection, or even by an honest willingness to open one's heart to the reprimands of a critical intuitive conscience. It is possible that a person might seek to realize elements of the righteous path while neglecting to pursue the righteous path in its entirety. It is possible to seek to be merciful, for instance, but neglect to properly reflect upon the demands of justice. But more importantly, it is possible that a person might seek to realize moral and ethical precepts while failing to seek out the Divine. The righteous path in its fullness is woefully incomplete and inadequate without believing in God. The Qur'an does appear to emphasize that although many elements of the righteous path can be sought out through intuitive and rational faculties, the realization of the righteous path in its entirety and fullness needs something extra—it needs an added power: it needs Divine bliss or grace. To be possessed of true wisdom

6 The jurist Ibn al-Qayyim al-Jawziyyah (d. 751/1350) asserted that the ethics of goodness (*khuluq*) is embodied in the values of justice, wisdom, welfare, and truthfulness, see Ḥilmī 1986, 198.

7 al-Rāghib al-Iṣfahānī 1973, 59. On Godliness and virtue see Maḥmūd 1989, 229.

(*ḥikma*), where one fully understands the balance (*al-mīzān*) or how all the elements fall into place to form the integrated whole requires spiritual and physical exertion and moral diligence, which in turn is rewarded by an act of grace (*hidāya*) that allows such a fortunate soul to realize the *sirāṭ al-mustaqīm* in its fullness. (al-Basṭī 2004, 10–13.)[8]

The Qur'an describes the Divine as pure and unadulterated light, and it insists that those who deny God's existence are spiritually blind. Recognizing or believing in the Divine is as if making a decision to remove the blindfolds, and if one does so, he enables himself to see the light that has been there all along unaffected by the heedlessness of the blind. Moreover, this Divine light has qualities and attributes that exist completely unaffected by the denials of the blind or the incredulity of the obstinate. The precepts and values of ethics and morality are what I have been describing as the qualities or attributes of the Divine. Metaphorically, moral and ethical precepts are like luminous supernal elements within the light of God. It is possible to seek out and recognize these luminous elements while denying that the Divine or its light exists. From a theological perspective, this means that a person who does so is partially blind—he can see particular luminous substances but does not see the full celestial light.

All human beings have an affirmative individual responsibility and obligation to see or recognize as much of the light as possible. Effectively, this means that each person is obligated to be as religiously pious and devout and as moral and ethical as possible. However, accountability for the realization of this responsibility is an entirely different matter than the obligation itself. Conceptually, the fact that human beings are obligated to seek the path does not necessarily mean that they are accountable for failing to realize the path or even accountable for failing to seek it in the first place. In Islamic theology, temporal accountability is entirely separable from Divine accountability. Divine accountability is something that is in the sole discretion of God—no one can tell God who to forgive or punish. Muslims are asked to believe that God is just in the most perfect sense. Therefore, while Muslims may believe that God, being perfectly just, will give each person his due, no one can presumptuously claim to know what the application of Divine justice will ultimately entail.

For instance, it might be that being treated cruelly by one's parents or that as a child one has suffered a cruel upbringing will be considered as mitigating factors when judging a person who has failed to realize the ethical precept of mercy. But other than believing that God will judge people with impeccable

8 Among the themes emphasized by the author is that the genuine intellect and true rationality would mandate the love of virtues and abhorrence of its opposite.

justice, human beings cannot pretend to know what God's judgment will be in the end. Temporal, as opposed to Divine, accountability is investigated through the instruments of Islamic jurisprudence.

Fundamentally, Islamic jurisprudence is concerned with investigating and establishing the obligations (*takālīf al-ḥalāl wa-al-ḥarām*) and also the temporal accountabilities or liabilities of Muslims (*al-masʾūliyyāt al-jināʾiyya wa-al-madaniyya*). Another way of understanding the functions of Islamic jurisprudence is to state: the quintessential role of Islamic jurisprudence is to search and establish the methodological tools for the exploration and realization of "rights" (*ḥuqūq*)—whether these rights belong to God or to humans. Rights, however, exist objectively—their existence is not contingent or conditioned on human recognition. Furthermore, if human beings recognize a particular right (*ḥaqq*), it does not necessarily follow that people have the power to hold individuals liable for violating both the rights of human beings and God.

Shariʿah as Ideology and Practice

The historical practice of Shariʿah was invariably complex and nuanced. Historically, Shariʿah was manifested as a complicated socio-legal practice that negotiated and weaved together textual determinism with political whim and social and customary habit with judicial interpretive discretion into a rich and intricate historical tapestry. But the historical manifestation of Shariʿah was also idealistically doctrinal, creedal, and aspirational. In other words, Shariʿah was not just an instrumental historical practice but also an ideology that interrogated and challenged socio-political realities.

According to Muslim legal theory, the purpose of Islamic law is to seek after the righteous path—to try to come as close as possible to it and in doing so, achieve the welfare of the people. In Islamic law, achieving the welfare of the people (*taḥqīq maṣāliḥ al-ʿibād*) is a term of art that is intended to acknowledge that the pursuit of abstract values, such as justice, compassion and mercy, is supposed to translate into concrete and tangible benefits to be enjoyed by human beings. Muslim and non-Muslim writers often refer to Islamic law as *Shariʿah*, which is not entirely accurate. Linguistically, the word *sharīʿa* literally means the fountainhead that quenches the thirst of living beings or the way to goodness. Jurisprudentially, the Shariʿah is the revealed guidance of God—perfect, complete, incorruptible, immune, and immutable. In a sense, the Shariʿah provides the skeletal ethical and moral norms of the Islamic legal system.

The main, but not exclusive, source of the Shariʿah is the Qurʾan, which focuses on general ethical and moral principles and a few specific laws. Roughly, there are eighty verses in the Qurʾan that might be seen as laws in

the strict sense, but the Qur'an is mainly a book of ethical and moral teachings. The specific laws that are considered a part of the immutable Shari'ah must fulfill two criteria: they must be stated by the Divine in a clear, specific, and unambiguous fashion; and the specific law must by its very nature fully embody the ethical principle that it is intended to articulate. Examples of such laws would include the command to pray five times a day, fast during the month of Ramadan, or give alms, and the prohibitions against extra-marital sex, slander, or the consumption of alcohol and pork. Another example would include the Qur'anic command that all contracts be consensual and free from coercion, fraud, deception or misrepresentation, and also that parties to a contract must in good faith make every effort to honor their promises. Muslim jurists argued that laws clearly mandated by God such as these are stated in an unambiguous fashion in the text of the Qur'an in order to stress that the laws are in and of themselves ethical precepts that by their nature are not subject to contingency, context, or temporal variations.

It is important to note that the specific rules that are considered part of the Divine Shari'ah are a special class of laws that are often described as Qur'anic laws (*aḥkām al-Qur'ān*), but they constitute a fairly small and narrow part of the overall system of Islamic law. In addition, although these specific laws are described as non-contingent and immutable, the application of some of these laws may be suspended in cases of dire necessity (*ḍarūra*). Thus, there is an explicit recognition that even as to the most specific and objective Shari'ah laws, human subjectivity will have to play a role, at a minimum, in the process of determining correct enforcement and implementation of the laws.

Some modern writers have argued that Shari'ah law, not just human interpretation of Shari'ah law, may be suspended if it is in the public interest to do so (*al-maṣlaḥa al-'āmma*). Effectively, these writers erroneously equate public interests with individual cases of necessity and treat the two as having the same effect upon Shari'ah law. The problem, however, is that this logic implies that public interest, however it may be defined, on a scale of Shari'ah values is the highest possible value that trumps all others. If public interest is equated with political interests or the greater attainment of happiness, this means that Shari'ah promotes a strictly utilitarian value system. The claim of an exception based on necessity is of an entirely different nature than the suspension of Shari'ah laws on the basis of public interests. A claim of necessity is but a tool invoked in order to protect a moral principle or ethical value. But a claim of public interest is premised on the idea of the greater good or preserving the overall welfare of people. An overriding utilitarian exception would be inconsistent with the objectivity of the Shari'ah and to its claim of any absolute moral values.

There is no indication that the Qur'an intended to endorse unmitigated subjectivism or moral relativism as the foundation of Shari'ah law. I am not

claiming that Islamic law does not recognize the incorporation of public interests in limited cases where such a reference does not conflict with the higher moral values of Shari'ah.

I am also not claiming that Islamic law limits itself to the recognition of cases of individual necessity or that Islamic law does not recognize cases of public necessity. In fact, because Islamic jurisprudence does recognize exceptions to the law in cases in which the necessity claimed is of a public nature, some contemporary jurists conclude that the difference between necessity and public interest is only a matter of degree—not fundamental in nature. This, however, is not correct: necessity suspends the application of the law in order to preserve a higher value, but claims that all laws could be altered in order to serve a general public interest (*maṣlaḥa ʿāmma*) renders the law subject to an overarching and overriding principle of general welfare or well-being. With such an overarching utilitarian commitment, it becomes difficult to defend the objectivity and absoluteness of any ethical or moral value. Every ethical or moral value becomes contingent on its ability to serve the general welfare or well-being of people, otherwise it is rendered invalid. This is exactly why modern jurists who relied on the concept of public interest as the save-all measure for Islamic legal reform have tended to create an unprincipled legal system that was made to endorse a very wide range of individualized and even idiosyncratic preferences.

The Example of the Ḥudūd Punishments

The invocation of public interests as a way of creating legal exceptions became a rather visible issue in modern times because of the nature and role of the so-called Qur'anic law, which is supposed to be a part of the immutable Shari'ah. Qur'anic laws or the special class of specific ethical commandments, although a small and narrow part of the legal system, are of considerable symbolic significance. This particular set of laws includes a group of criminal sanctions that are known as the *ḥudūd* punishments. Underscoring the significance of the *ḥudūd* punishments is the fact that most of these laws implicate the mixed rights of God and human beings (*ḥuqūq mukhtalaṭa*).

The so-called *ḥudūd* punishments—which include lashing, stoning to death, and the severing of hands—are the most controversial aspect of Shari'ah law in the modern age. For many Muslims, they have become the indisputable proof of the unique identity of the Islamic legal system and also the symbol for Muslim cultural and political autonomy. For many non-Muslims, however, *ḥudūd* punishments are considered medieval, draconian, and barbaric.

Furthermore, many non-Muslim and Muslim scholars and writers, who are poorly informed about Islamic jurisprudence, treat these laws as if they are the very heart and core of the Islamic legal system. Consequently, many have come to the rather inescapable conclusion that Shariʿah law is fundamentally incompatible with modern conceptions of human rights.

There is no question that most medieval Muslim jurists considered the *ḥudūd* punishments to be part of the immutable and eternal Shariʿah and, therefore, they rendered the *ḥudūd* punishments not subject to change, modification, or abrogation. Whether intentionally or not, most medieval Muslim jurists created the impression that it is not possible to implement Shariʿah law without enforcing the *ḥudūd* punishments and that, in general, the *ḥudūd* are integral to the Islamic legal system. Interestingly, however, *ḥudūd* punishments were hardly ever implemented in Islamic legal history, for the most part because Muslim jurists made the evidentiary requirements and the technical pre-conditions for the enforcement of the *ḥudūd* practically impossible to fulfill or because they admitted so many mitigating factors to the point that only a criminal who was most determined to be punished could be made to suffer the *ḥudūd* penalties. (See Rabb 2015; idem 2010; idem 2011.)

Whether the so-called *ḥudūd* crimes ought to be considered an immutable and permanent part of Shariʿah warrants rethinking. I think it is erroneous to treat the *ḥudūd* punishments as part of the ideology of Shariʿah, and thus aspirational and necessarily desirable. As mentioned earlier, generally, the Shariʿah embodies the characteristics and attributes of Divinity, which consist of general ethical and moral teachings. However, Muslim jurists treated specific laws, which are explicitly commanded by God, to be a part of the eternal Shariʿah as if these laws are in and of themselves ethical precepts that by their nature are not subject to contingency, context, or temporal variations. Dealing with the *ḥudūd*, Muslim jurists focused on the punishments and not on the behavior or conduct that warranted the penalties. In doing so, they erroneously rendered some of the punitive measures mentioned in the Qur'an and Prophetic traditions sacrosanct and eternal. But there is no plausible reason to believe that the attributes or characteristics of Divinity or that the ethical precepts of Islam are embedded in specific punishments—whatever these punishments may be. If the Divine Will was to safeguard the *ḥudūd* punishments, either as embodying the attributes and characteristics of God or essential ethical and moral values, it would be incongruous for such punishments to be contingent, contextual, or subject to mitigation.

In my view, the classical approach, which tended to sanctify particular punitive measures and treat them as if part of the immutable and eternal Shariʿah,

is quite unfortunate. What ought to be considered immutable and eternal are the ethical values that the punitive measures were intended to safeguard and not the punitive measures themselves. The severity of the punishments mentioned in the sources is an indication of the importance of a particular value to the Shariʿah. Therefore, the punishments prescribed for fornication or stealing are powerful indicators of the value that the Shariʿah places on chastity and on not stealing. The punishments themselves, however, are contextual—they depend on a variety of factors such as mitigation; evidentiary certitude; the intent and purpose of the individual perpetrator; the reliability and accountability of the judicial system at a particular time and place; community standards; sociologically dependent and shifting notions of cruelty, barbarity and mercy; and the possible deterrence value of such punishments within the context of a certain age and place.

As already noted, the classical jurists were keenly aware that to the extent possible, an Islamic judicial system ought to avoid applying the *ḥudūd* punishments. In fact, in a well-known set of traditions, the Prophet Muhammad is reported to have taught that in criminal matters, any doubt must be construed in the light most favorable to a defendant. Moreover, in the case of *ḥudūd*, the Prophet instructed that Muslims ought to seek out the shadows of doubt in order to avoid having to inflict a *ḥadd* (singular of *ḥudūd*) punishment against a defendant. According to the Prophet, if a person knows that someone has committed a *ḥadd* crime, it is better to help the criminal repent than to expose the criminal by turning him in to the authorities. Furthermore, bringing *ḥadd* charges against a suspect that the accuser is ultimately unable to prove might in some circumstances subject the accuser to punishment, and sneaking and spying is not a valid way of proving a *ḥadd* crime.[9]

9 See Qurʾan 49:12 which prohibits spying on people ("O you who believe, avoid assumption [*āmanū ǰtanibū kathīran min al-ẓann*]. Indeed, some assumption is sin. And do not spy or backbite each other [*wa-lā tajassasū wa-la yaghtab*]") and Qurʾan 24:27 which prohibits entry into another person's home without the owner's permission. There is an often quoted tradition about ʿUmar b. al-Khaṭṭāb (the second caliph) entering a man's house without permission because he heard singing in the home. When ʿUmar entered the house by climbing over the wall, he found the man in the company of women. The man in the house told ʿUmar: "O Commander of the Faithful, do not make haste. If I have disobeyed God once, you have disobeyed [God] three times. God has said: 'Do not spy,' and you have spied; God has said: 'It is not righteous to enter homes from the back', and you have climbed over my wall; and God has said: 'Do not enter houses other than yours', and you have entered my home without my permission …" Then ʿUmar forgave him and left." See al-Ghazālī 2010, 2:325. Also, see Rabb 2015, 108; idem 2010, 63–65, 81–83, 101–08.

This principled recalcitrance and the various safeguards against a wide application of the *ḥudūd* are a clear indication that the *ḥudūd* punishments themselves do not embody an ethical or moral value. The value is in the unethical and immoral behavior that the *ḥudūd* are intended to deter. Therefore, for instance, it is the ban against the consumption of alcohol that is immutable and eternal and a part of the Shariʿah, and not the punitive measure prescribed in the text for the commission of such an offense. I do realize that accepting this argument would constitute nothing short of a radical paradigm shift in the way that Muslims think about the so-called *ḥudūd* punishments. Nevertheless, I believe that this paradigm shift is critically important for the internal coherence of the Shariʿah system. It is reasonable to deal with the ethical and moral values of the Shariʿah as immutable, eternal, and absolute, but the positive and context-based laws are temporal and changeable.

The Pursuit of the Truth of Divinity

Beyond ethical and moral principles and the specific set of laws that inherently embody an ethical or moral principle, there is an archetypal sense to Shariʿah law. *Shariʿah* is the Divine law as it exists in God's Mind, known with thoroughness and perfection only to God. The Shariʿah is Divine because it emanates from God and it exists only through God. Any human legal system sets in motion certain potentialities—a potential, for instance, for achieving justice, equity, fairness, security, safety, and stability—but the ability of a legal system to pursue, leave alone achieve, any of these potentials is highly contingent.

The pursuits of a legal system are dependent on a set of complex sociopolitical and economic conditions as well as the sincerity, knowledge, intelligence, and diligence of the typically large number of human beings who grease and turn the wheels of a legal system. The Shariʿah, however, is not only a possibility or potential; it is the fully realized and fulfilled just order possible only from and through God. The Shariʿah is Divine only because it is not contingent on the human element, but it is a utopian reality existing only in the realm of the Divine. Shariʿah in its true sense is Divine verity—a utopian inspiration and the perfected ideal. Like the achievement of immaculate justice and consummate ethical existence, these are aspirations and ideals that are unattainable and unachievable, but the fact that they are impossible to realize should not in any sense dissuade human beings from pursuing them as ideals. Similarly, Shariʿah is but an inspirational ideal that gives purpose and meaning to the lives of those who traverse in the path to and from God.

As God's viceroys entrusted with the preservation and caretaking of God's earth (*khulafāʾ fi al-arḍ*), human beings have been commanded not to corrupt the earth, to strive to follow the Divine path, and to act as witnesses on God's behalf by calling for what is moral and good and by resisting what is immoral and depraved (*al-amr bi-ʾl-maʿrūf wa-ʾl-nahy ʿan al-munkar*): "You are the best nation created [as an example] for mankind. You command what is good and forbid what is evil and believe in God." (Qur'an 3:110.) The obligation to command the good and forbid the evil is fundamental to honoring God's trust and covenant with human beings as God's viceroys and agents on the earth.[10]

The elements of the Divine covenant or trust also identify the nature of the obligation owed by Muslims towards the Shariʿah. In order to discharge God's covenant or trust, human beings are commanded to engage in a process—the process mandates that there be a conscientious and diligent search or investigation for what is good and what is bad, and then engaging in the process of teaching, counseling, and enforcing. If Muslims had unobstructed and total access to God and God's knowledge, there would be no need to engage in the process of searching because the good and evil would become fully transparent. As Muslim jurists have emphasized, although God is the perfect embodiment of goodness and the exact antithesis of all that is evil, human beings do not have access to God's knowledge; the most that human beings can claim on any specific problem, after a conscientious and diligent search, is a probability of belief that they have succeeded in finding the truth (*ghalabat al-ẓann*). (Juwaynī 1987, 50–51. Also, see Abou El Fadl 2001, 145–49.) Hence, human knowledge cannot be equated with the truth of Divinity, but the very process of searching is morally praiseworthy, and an ethical imperative, even if human beings are capable only of approximating and coming close to the truth. Moreover, human beings may attain parts of the truth, but they can never embody the whole truth of Shariʿah. In my view, if a government, group, or people arrogantly claim that they are capable of representing the Divine Truth or Will, then they have committed a grievous moral offense by associating partners with God (*shirk*).

10 See my discussion on this in Abou El Fadl 2014a, 391–414, esp. 411–14. For a study on the obligation to command the good and forbid the evil in the Islamic tradition, see Cook 2000.

Qur'anic Ethical Imperatives in the Age of Cosmopolitanism

As noted above, the Qur'an recognizes certain ethical principles as universally applicable and pertinent. (Hourani 1985). The Qur'an states, for instance: "And God does not desire for human beings to suffer injustice." (Qur'an 3:108.) Indeed, the Qur'an often upholds moral universals in an unequivocal and imperative fashion. So, for instance, the Qur'an asserts: "O you who believe, be persistent and stand firm in justice, bearing witness for God, even if it be against yourselves or your parents or your close ones. Whether rich or poor, God is their sustainer. Refrain from following your whims and desires lest you fail to be just, for if you fail to uphold justice, God is fully aware of what you do." (Qur'an 4:135.)[11] On the basis of this and other similar Qur'anic articulations, it is reasonable to conclude that, from an Islamic perspective, Muslims are encouraged to search for moral universals that could serve as shared and common goals with humanity at large. (See my essays in Abou El Fadl et al. 2002). Moreover, this seems to me to be an essential characteristic of a universal religion that is addressed to humanity at large, and not to an exclusive cultural, social, or ethnic group. The Qur'an insists that it is the bearer of a message to all humankind and not to a particular tribe or race. (Qur'an 38:87.) Moreover, the Qur'an asserts that the Prophet Muhammad, and in fact the Qur'an itself, was sent to all peoples as a blessing and mercy. (Qur'an 7:52, 203; 17:82; 21:107.) The Qur'an also persistently emphasizes the ethical quality of mercy as a core attribute of God and as a fundamental and basic pursuit of Islam. (Qur'an 12:111.) The Qur'an informs human beings that God has decreed and mandated mercy even upon God's self, and therefore, is bound to extend it to human beings. In the Qur'anic discourse, mercy and peace are inextricably linked—peace is a Divine mercy, and mercy is the bliss of peace. To comprehend and internalize God's mercy is to be in a blissful state of peace. (For instance, see Qur'an 6:54; 27:77; 29:51; 45:20.) This is at the very essence of the state of Divine beatification and of being filled with the goodness of the Divine, and having

11 Qur'an 5:8 states, "O you who believe, be steadfast in your devotion to God, and bear witness justly. Do not allow your hatred towards others to lead you astray from justice. Adhere to justice for that is closer to piety, and be ever mindful of God for God is always aware of all that you do." Another verse and incident illustrating a similar moral point involves revelation 80:1. The Prophet was meeting with the notables of Mecca when he was approached by a poor and blind man (reportedly, named Ibn Umm Maktūm) with inquiries about Islam. Eager to persuade the unbelieving noblemen, the Prophet turned away from the poor blind man. Thereupon, chapter 80 was revealed reproaching the Prophet for favoring the noblemen over a lowly member of society. See al-Zāyid n.d., 1:449–50.

this quality manifest outwardly in everything a person does is known as *iḥsān*. *Taʿāruf* (knowing the other) and *taʾāluf* (amicability between people) is a great gift of Divine mercy that leads to the grace of enjoying peace. But knowledge of the other is not possible without the grace of *iḥsān*, which calls upon people to approach one another, not just with mercy and sympathy, but with empathy and compassion. This has become all the more critical in an age in which advances in communications has united the consciousness of human beings into an ever more shared epistemological awareness. It is as if the urbanized populations of the world, regardless of their cultural and historical particularities, have been forced into a porous epistemological consciousness in which different societies cannot avoid gazing upon one another. In such a world, Islamic law cannot afford to be interpreted on the basis of legal rulings and precedents of the past alone. Rather, Islamic law must be reconstructed on the basis of the moral momentum of the Qurʾan, or in other words, the ethical trajectories and potentialities set in motion by the Qurʾan.

In my view, the Qurʾanic moral momentum has always manifested itself by limiting abusive conditions. The prevalent logic of the Qurʾan is that people ought to strive and struggle to obtain God's blessings, but God's blessings are not limited to rewards in the Hereafter alone. God's blessings include social progress, more rights and entitlements to human beings, and a fuller expression of beauty in the social institutions and laws that govern people. Although God's blessings are not normally thought of in this way, the reality is that the Qurʾan consistently speaks about socially advantageous conditions, such as peace, tranquility and safety, a secure homeland, adequate shelter, financial success, thriving commerce, and lack of oppression, as blessings from God that are contingent on the efforts of human beings. Importantly, however, the enjoyment of socially advantageous conditions cannot be based on coercive dynamics. In fact, coercive dynamics are often portrayed in the Qurʾan as leading to oppression and to the corruption of the earth. The Qurʾan teaches that calling to the path of the Lord should be done with wisdom and a beautiful demeanor, and that one should reason with people in a gracious fashion. "For your Lord knows who strays from the path, and God knows those who are rightly guided." (Qurʾan 16:125.) It is contrary to the prerequisites of goodness to coerce people to be good or beautiful. Rather, there is no alternative to seeking what might be called an overlapping consensus according to which, through advocacy and persuasion, Muslims are convinced to move closer to conditions of goodness and beauty by pursuing the moral and ethical lessons taught by God.

Reading Islamic texts, especially the Qurʾan, in order to derive moral and ethical lessons requires a major epistemological shift in understanding the way that God affirms a moral and ethical principle and then illustrates the lesson

by responding to and treating abusive situations. Especially among modern Muslims, the Qur'anic methodology in dealing with what it calls situations of *istiḍʿāf* (oppression by rendering the other weak and dependent) has been a largely neglected field of study. In fact, one way of understanding Qur'anic moral and ethical trajectories, and also understanding the dynamics of the Qur'an in dealing with the establishment of foundational rights as well as derivative and contingent rights, is by analyzing the Qur'anic efforts to put an end to situations of *istiḍʿāf* within the historical context of early Islam. Put simply, *istiḍʿāf* is the existence of social conditions that made certain groups or classes of people weak and dependent in relation to others. Because of this relationship of *istiḍʿāf*, the ideal of submission to God is rendered more difficult due to the fact that people in this condition find themselves vulnerable to the demands and whimsies of others. In effect, the weak and dependent are rendered submissive to other human beings, and because of this, their submission to God is compromised by their powerlessness before other human beings.

Interestingly, the idea of *istiḍʿāf* is not purely physical or material, but it also has a psychological component. The *mustaḍʿafun* (the victims of *istiḍʿāf*) are not just materially weak and dependent, but are also seen as such by their oppressors. In other words, whatever the material conditions that make such a people objectively weak and dependent, they are also seen as subservient and inferior and are treated with a distinct sense of arrogance on the part of those who have power over them. Significantly, if those who find themselves in a condition of *istiḍʿāf* fail to take action to change their condition, the Qur'an holds them blameworthy by describing them as unjust to themselves. (Qur'an 4:97–98). If people meekly accept *istiḍʿāf* and do not actively attempt to challenge their condition and alter it, they are suborning injustice by allowing it to exist.

Two points follow from the Qur'anic discourse on *istiḍʿāf*. First, Qur'anic reforms were often intended to end conditions of *istiḍʿāf* and to break the moral arrogance that pervaded these relationships. This meant that the reforms introduced by the Qur'an were proportional with the need to put an end to conditions of *istiḍʿāf*, and to alter prevalent attitudes of moral arrogance that existed within the Qur'anic context. But this also means that under a different set of circumstances, further reforms will be needed to deal with different forms of *istiḍʿāf* prevalent at a particular time, and that further measures are mandated to challenge new forms of moral arrogance. Second, the connection between *istiḍʿāf* and moral arrogance is yet another reason that the Qur'an expects people to strive towards attaining more rights consistent with the foundational rights recognized by God. Furthermore, if people help themselves and God reciprocates their efforts by putting an end to a situation of *istiḍʿāf*, they have walked in God's path and they also have earned God's

blessings. The victims of *istiḍʿāf* need to become empowered not just materially, but emotionally and psychologically as well, and by articulating and pursuing their ethical demands, they need to challenge and deconstruct socially engrained moral arrogance. Perhaps most importantly, Muslims have not yet explored the full implications of the notion that by accepting oppressive situations, acquiescing in relationships of weakness and dependency, and by failing to demand justice, in the sense of a proportional and reciprocal relationship between rights and duties, they are deviating from the Divine Path and committing an offense against themselves. One of the persistent ethical themes of the Qur'an and Sunna is the treatment of empowering the powerless as a social virtue (*nuṣrat al-mustaḍʿafīn* or *raf ʿal-qahr ʿan al-mustaḍʿafīn*). In fact, in my opinion, if one would be interested in developing a comprehensive and systematic theory of Islamic justice, such a theory would have to be constructed around the principle of protecting the least privileged. The Islamic tradition is replete with narratives attributed to the Prophet or one of the companions asserting that the rights recognized by the collectivity must be measured in accordance with the needs of the weakest or least privileged in the community.

Shariʿah and the Caliphate of Godliness

Of essence to the very concept of Shariʿah, as an inspiration and also as an aspiration, is to honor and celebrate human beings. Humans are honored and celebrated because they are God-like, capable of doing God-like things.[12] Many narratives in the Islamic tradition emphasize that God created humans in beauty, and that this is sufficient to obligate human beings to act beautifully—to make their external beauty, as bearers of God's proverbial image, reflective of their inner beauty. (See al-Ghazālī 2010, 3:54). In the Qur'anic parable of creation mentioned earlier, God is said to have offered the trust (*al-amāna*) to all of creation, but ultimately it was shouldered only by human beings. The Qur'an then somberly notes that bearing this trust is such an onerous and arduous task. (Qur'an 33:72) I believe that this weighty trust for which human beings were honored and dignified is the marvel of divinity itself. Human beings are but nuances of the Divine—inexhaustible anecdotes of divinity capable of

12 According to the hadith tradition, Adam was reportedly created in God's image. For a discussion of the topic, see Melchert 2011. Although, I have serious reservations about the author's arguments.

creating such immeasurable acts of true beauty.[13] As human beings invent and create beauty they move towards the majestic caliphate of Godliness. When human beings no longer seek or create beauty, forget their bonds to the ethereal and sublime, and slump into indolence and despair, human beings drift further away from Godliness into its antithesis. God is the light of the heavens and earth—light upon light! (Qur'an 24:35). In every act of beauty—in every nuance that commemorates the truth of our Divine nature, and memorializes the caliphate of humanity in the world, we move closer to the Divine light. But in remaining static—in existing without beautification or in false beautification, or in subsisting without service born out of love, mercy, and compassion—i.e. without the attributes and nuances of Divinity—we no longer move towards the light, and in fact, drift from the possibility of Godliness to the darkness of godlessness.[14]

Shari'ah should be understood strictly as the equivalent to the virtues of Godliness as the higher ideals of society and humanity at large. When the Qur'an states, for instance: "Do good for God loves those who do good" (Qur'an 2:195; 3:134), it uses the plural command form of "*yā aḥsinū*" or all of you people, do "*iḥsān*"—a command form to do acts of beauty (or acts of *ḥusn* or *iḥsān*). In this, the Qur'an has provided a textual grounding for the rational and natural moral imperative of acting to achieve goodness.

The attributes of God acknowledge the characteristics of goodness, but we human beings are the trustees on this earth and so we, without limitations, possibilities, and potentialities, define the epistemologies and deontological implications of these attributes. So, for instance, I know as a Muslim that among God's attributes are mercy, compassion, justice, forgiveness, and so on. Furthermore, reason and revelation impose these attributes as obligations in a variety of circumstances, some of which will require that I reflect upon the necessity of balance and proportionality in the application of these attributes. It is the balance and just proportionality that will ultimately allow me to reflect on good character. The perpetual process is to reaffirm goodness, but aspire towards Godliness. If Shari'ah is understood properly, it will not only allow us to empower ourselves with rational morality, but also continue to be inspired and moved by the promise of Divine Beauty. Understanding Shari'ah as a set of natural virtues, and adopting it as a normative guide, represents an affirmation

13 See the commentary on the reported narrative stating: "God is beautiful and loves beauty!" Chourief 2011, 188–89.

14 Al-Ghazālī 2010, 3:54 argues that the perfection of ethics elevates one towards the example of the Prophet and towards Godliness. The lack of ethics draws one closer to darkness and the demonic.

of moral character and identity of a people, the continuity of the Islamic heritage and tradition, and a renewed search for common grounds with humanity at large, which shares the responsibility for the well-being and flourishing of the earth as the collective inheritance of humanity.[15] As Muslims, we adopt principles based on Divine teachings for the simple reason that we affirm the principle that we need God's grace, and we find dignity in submitting to the Divine guidance. Moreover, in principle, we want to affirm the duality of anchoring our aspirations upon the eschatology of God's laws, and upon the collective guidance of accumulations of human wisdom.[16]

Conclusion

Moral absolutes or universals, like Divinity, are the compass and guiding lights of Shari'ah. The Qur'an affirms the objective validity of moral and ethical principles as virtues inseparable from goodness, beauty, and Divinity itself. What are known as Qur'anic laws or rulings are illustrative examples of the pursuit of moral absolutes within the bounds of moderation or reasonableness. What is moderate or reasonable is not defined by law but by contextual relationships of reciprocity and proportionality, epistemological consciousness, and social and cultural processes. Inspired by the Qur'anic message, earlier generations of jurists created a complex system of interpretations, rulings, and adjudications that we now identify as Islamic law. In doing so, many Muslim jurists sought to fulfill the ethical teachings of God's revelation (or *akhlāq*), but they did so within the bounds of their epistemological understandings and what they considered to be reasonable within the parameters of their circumstances. But the rulings or laws that were deduced by the earlier generations of jurists cannot be seen as the embodiment or as the full articulation of the moral and ethical teachings of the Qur'an. Doing so would undermine and exhaust the moral and ethical potential of the Divine message. The very nature of the sacred trust of viceroyship that has been given to human beings to bear obligates Muslims to reengage and reconstruct the Islamic legal tradition on a foundation of the epistemological understandings of their contemporaneous moment and within the ever-evolving confines of reasonableness.

15 On the promising relationship of virtue ethics theory to natural law theory see Martin 2008. On virtue and natural goodness, see Foot 2001, 81–82; Adams 2006; Annas 2011.

16 See the interesting discussion, Mouw 1990, 6–42. Also, see Evans 2013; Ritchie 2012; Setiya 2012; Murphy 2011.

Bibliography

Abou El Fadl, Khaled. 2001. *Speaking in God's Name: Islamic Law, Authority and Women.* Oxford: Oneworld Publications.

Abou El Fadl, Khaled. 2014a. *Reasoning With God: Reclaiming Shariʿah in the Modern Age*. Lanham, MD: Rowman & Littlefield.

Abou El Fadl, Khaled. 2014b. "When Happiness Fails: An Islamic Perspective." *Journal of Law and Religion* 29: 109–23.

Abou El Fadl, Khaled, Joshua Cohen, and Ian Lague, eds. 2002. *The Place of Tolerance in Islam.* Boston, MA: Beacon Press.

Adams, Robert Merrihew. 2006. *A Theory of Virtue: Excellence in Being for the Good*. Oxford: Clarendon Press.

Ali, Syed Ameer. 1893. *The Ethics of Islam*. Calcutta: Thacker Spink Co.

Annas, Julia. 2011. *Intelligent Virtue.* Oxford: Oxford University Press.

Attar, Mariam al-. 2010. *Islamic Ethics: Divine Command Theory in Arabo-Islamic Thought*. New York: Routledge.

Basṭī, Abū Ḥātim b. Hibban al-. 2004. *Rawḍat al-ʿuqalāʾ wa-nuzhat al-fuḍalāʾ*. Beirut: al-Maktaba al-ʿAṣriyya.

Chourief, Tayeb. 2011. *Spiritual Teachings of the Prophet: Hadith with Commentaries by Saints and Sages of Islam*. Edited by Fatima Jane Casewit; translated by Edin Q. Lohja. Louisville, KY: Fons Vitae.

Dārimī, ʿAbd Allah b. ʿAbd al-Raḥmān. 2013. *Kitāb al-Musnad al-jāmiʿ*. Beirut: Dār al-Bashāʾir al-Islāmiyya.

Evans, C. Stephen. 2013. *God & Moral Obligation.* Oxford: Oxford University Press.

Foot, Philippa. 2001. *Natural Goodness*. Oxford: Oxford University Press.

Ghazālī, Abū Ḥāmid al-. 2010. *Iḥyāʾ ʿulūm al-dīn*. Beirut: Dar al-Maʿrifa.

Ḥanafī, Ḥasan. 1988. Min al-ʿaqīda ilā al-thawra. Cairo: Maktabat Madbūlī.

Ḥilmī, Muṣṭafā. 1986. *al-Akhlāq bayna al-falāsifa wa-ḥukamāʾ al-islām*. Cairo: Dār al-Thaqāfah al-ʿArabiyya.

Hourani, George F. 1985. *Reason and Tradition in Islamic Ethics.* Cambridge: Cambridge University Press.

Ibn Abī al-Dunyā, ʿAbd Allah b. Muḥammad. 1990. *Makarim al-Akhlaq*. Cairo: Maktabat al-Qurʾān.

ʿImāra, Muḥammad. 1972. Al-Islāam wa-al-thawra. Bayrūt: al-Muʾassasa al-ʿArabiyya li-al-Dirāsāt wa-al-Nashr.

Juwayni, Abu Yusuf al-. 1987. *Kitāb al-Ijtihād min Kitāb al-Talkhīṣ.* Damascus: Dār al-Qalam.

Khatib al-Tabrizi, Muhammad b. ʿAbd Allah al-. 1979. *Mishkāt al-maṣābīḥ.* Beirut: al-Maktab al-Islāmī, 2nd ed.

Maḥmūd, ʿAbd al-Ḥalīm. 1989. al-*Tafkir al-falsafī fī al-islām*. Cairo: Dār al-Maʾārif.

Mālik b. Anas. 1985. *Al-Muwaṭṭa.'* Cairo: Muṣṭafa al-Bābī al-Halabī.

Martin, Christopher. 2008. "The Relativity of Goodness: A Prolegomenon to a Rapprochement between Virtue Ethics and Natural Law Theory." In *Contemporary Perspectives on Natural Law*, ed. Ana Marta Gonzalez. Surrey, UK: Ashgate Publishers, 187–209.

Melchert, Christopher, 2011. "God Created Adam in His Image." *Journal of Qur'anic Studies* 13: 113–24.

Mouw, Richard J. 1990. *The God Who Commands: A Study in Divine Command Ethics.* Notre Dame, IN: Notre Dame University Press.

Murphy, Mark C. 2011. *God & Moral Law: On the Theistic Explanation of Morality*. Oxford: Oxford University Press.

Quṭb, Muḥammad. 1980. *Jāhiliyyat al-qarn al-'ishrīn.* Cairo: Dār al-Shurūq.

Rabb, Intisar A. 2010. "Islamic Legal Maxims as Substantive Canons of Construction: Ḥudūd Avoidance in Cases of Doubt." *Islamic Law and Society* 17: 63–125.

Rabb, Intisar A. 2011. "The Islamic Rule of Lenity: Judicial Discretion and Legal Canons." *Vanderbilt Journal of Transnational Law* 44: 1316–51.

Rabb, Intisar A. 2015. *Doubt in Islamic Law: A History of Legal Maxims, Interpretation, and Islamic Criminal Law*. New York: Cambridge University Press.

Rāghib al-Iṣfahānī, al-Ḥusayn b. Mufaḍḍal al-. 1973. *al-Dharī'a ilā makārim al-sharī'a.* Edited by Ṭāhā 'Abd al-Ra'ūf Sa'd. Cairo: Maktabat al-Kulliyyāt al-Azhariyya.

Rahman, Fazlur. 2009. *Major Themes of the Qur'an*. Chicago: University of Chicago Press.

Ritchie, Angus. 2012. *From Morality to Metaphysics: The Theistic Implications of our Ethical Commitments.* Oxford: Oxford University Press.

Sachedina, Abdulaziz Abdulhussein. 2001. *The Islamic Roots of Democratic Pluralism*. Oxford: Oxford University Press.

Sachedina, Abdulaziz Abdulhussein. 2009. *Islam and the Challenge of Human Rights*. Oxford: Oxford University Press.

Setiya, Kieran. *Knowing Right from Wrong.* 2012. Oxford: Oxford University Press.

Sharqāwī, 'Abd al-Raḥmān. 1985. 'Alī, imām al-muttaqīn. Cairo: Maktabat Gharīb.

Shīrāzī, Muḥammad b Mahdī al-Ḥusaynī al-. 1959. Al-'Adāla al-islāmiyya. No place.

Tūnjī, 'Abd al-Salām. 1993. *Mu'assasat al-'adāla fī al-sharī'a al-islāmiyya.* Tripoli, Libya: Kulliyyat al-Da'wah al-Islāmiyya.

Zāyid, Samīra al-. N.d. *al-Jāmi' fī al-Sīra al-nabawiyya*. No place.